

Board of Education Agenda Item

Item: A.

Date: January 19, 2005

Topic: Final Review of Proposed Amendments to Virginia's Consolidated State Application Accountability Plan Under the *No Child Left Behind Act of 2001*

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Origin:

☐ Topic presented for information only (no board action required)

☒ Board review required by

☒ State or federal law or regulation

☐ Board of Education regulation

☐ Other: _____

☒ Action requested at this meeting ☐ Action requested at future meeting: _____ (date)

Previous Review/Action:

☐ No previous board review/action

☒ Previous review/action date January 12, 2005 action Board accepted for first review

Background Information: The *No Child Left Behind Act of 2001* (NCLB), which is a reauthorization of the Elementary and Secondary Education Act (ESEA), requires all state educational agencies (SEA) to submit for approval to the United States Department of Education (USED) individual program applications or a consolidated state application. In May 2002, the Virginia Board of Education submitted and received USED approval for its initial Consolidated State Application under the NCLB law. The NCLB application process involves multiple submissions of information, data, and policies. A major component of the consolidated application is Virginia's Consolidated State Application Accountability Workbook that describes a single statewide accountability system for the commonwealth. Virginia received USED approval for its accountability workbook in June 2003. USED required additional amendments to Virginia's workbook in September 2003. The accountability workbook that describes the policies and procedures that were used to determine Adequate Yearly Progress (AYP) ratings for the 2003-2004 school year are described in the amended workbook dated May 26, 2004.

States are permitted to revise their Consolidated State Application Accountability Workbook by submitting requests for review and approval to USED. Guidance from USED suggests an April 1 deadline for requesting changes that would impact AYP determinations in the current academic year. Based on two years of implementing NCLB, the Virginia Department of Education has identified certain procedures in implementing AYP policies that may result in unintended consequences.

Summary of Major Elements:

Revisions are being proposed to several critical elements in the Consolidated State Application Accountability Plan. The statutory authority that permits states to request, and the U.S. Secretary of Education to approve, waivers to requirements in NCLB is found in Section 9401 of the federal law:

“SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) IN GENERAL- Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that —

(1) receives funds under a program authorized by this Act; and

(2) requests a waiver under subsection (b).”

Virginia’s proposed amendments fall under five major areas: (1) application of the “other academic indicator” (in addition to performance and participation on the reading and mathematics tests) that is used to make AYP determinations when safe harbor is not invoked, (2) how states determine if a school, school division, and the state have made AYP or enter improvement status, (3) use of test scores from multiple administrations, (4) testing and AYP calculation policies for limited English proficient students, and (5) testing and AYP calculation policies for students with disabilities. Attachment A describes each proposed amendment, the current NCLB policy approved for Virginia, and the rationale for the proposed request. Attachment A also proposes amendments to the Consolidated State Application related to the testing of limited English proficient students and the amount of federal funds the state will reserve for immigrant youth and children. In addition, the amended workbook pages are attached highlighting in bold print the changes proposed. Amendments are reflected in Critical Elements 1.6, 3.2, 4.1, 5.3, 5.4, 5.5, 6.1, 7.1, 8.1, and 10.2.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education approve the proposed amendments to the Virginia Consolidated State Application Accountability Plan as permitted in Section 9401 of the federal law and the proposed amendments to the Consolidated State Application.

Impact on Resources: The provisions of the *No Child Left Behind Act of 2001* require the Department of Education to collect and analyze data related to determining Adequate Yearly Progress for all schools and school divisions in the state, assessing limited English proficient (LEP) students on their English language proficiency and content knowledge, and collecting and reporting additional data on LEP students. These requirements will continue to have an impact on the agency’s staff resources. The Virginia Department of Education is working with a consortium of the Council of Chief State School Officers (CCSSO) to identify the cost of implementing NCLB.

Timetable for Further Review/Action: Following final approval, the amendments will be submitted to the United States Department of Education as revisions to Virginia’s Consolidated State Application Accountability Workbook and state application.

Attachment A
**Summary of Proposed Amendments to Virginia Consolidated State
Application Accountability Plan Required in NCLB**

January 19, 2005

NCLB Statutory Authority for Amendment Requests:

"SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) IN GENERAL- Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that —

(1) receives funds under a program authorized by this Act; and

(2) requests a waiver under subsection (b)."

<p>1. AYP: Targeting Choice and Supplemental Services (Critical Elements 1.6 and 4.1)</p>
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Request: Virginia will target supplemental educational services and public school choice to the subgroup(s) and individual students that need the most help. Virginia will identify students and schools who are most in need by distinguishing between schools failing to make AYP for the entire student body and schools that achieve AYP for the entire student body but fail to meet it for a particular subgroup. Choice and supplemental services will apply to the subgroup(s) and individual students not making AYP.

Rationale: The statute treats all schools that fail to make Adequate Yearly Progress (AYP) equally, regardless of whether such failure is based on one subgroup failing to make AYP in one subject, or all subgroups failing to make AYP in both reading and mathematics. Currently, all students in a Title I school in school improvement status are eligible for school choice, and all low-income students in a school that is in the second year of school improvement or corrective action are eligible to receive supplemental services, regardless of their achievement. Using federal funds to provide school choice to students not eligible for Title I services limits the amount of funds available to serve eligible low-income students. Similarly, using federal funds to

provide tutoring services to all low-income students in a school limits funds available to serve students in subgroups that need the most help.

2. AYP: Consecutive Years Same Subject and Same Subgroup (Critical Element 1.6)

Request: Virginia will identify for improvement only those schools that fail to make AYP for two consecutive years in the same subject and for the same subgroup.

Rationale: Currently, USED requires that Title I schools that fail to meet AYP for two (or more) consecutive years be placed in school improvement. USED regulations permit states to identify for school improvement only those schools that fail to meet AYP for two consecutive years in the same subject, but prohibit states from treating subgroups the same way. This model raises reliability concerns given the many subgroups (i.e., seven in Virginia) that could fail to demonstrate AYP for any given year. This policy also fails to recognize the different educational problems that may be evidenced and interventions that may be appropriate in cases where different subgroups fail to demonstrate AYP. Identifying schools in improvement based on not making AYP for two consecutive years in the same subject and same subgroup will target resources where needed most.

3. Reversing Order of School Improvement Sanctions (Critical Elements 1.6 and 4.1)

Request: Virginia will allow schools the flexibility to reverse the order of sanctions in the first two years of school improvement. Supplemental educational services may be offered to eligible students attending schools in improvement in the first year and public school choice in the second year.

Rationale: Currently, USED requires that Title I schools in Year One Improvement status provide eligible students public school choice. Title I schools in Year Two Improvement status must provide eligible students supplemental educational services and continue to offer choice. An

effective school choice plan requires time to develop and communicate to parents and the public. AYP is calculated using test scores from the spring administration and, therefore, AYP determinations are not available until late July or early August. This is too close to the opening of school for choice plans to be implemented effectively. A more effective intervention strategy for the first year of improvement is offering eligible students supplemental services while planning for choice implementation. If the school moves to Year Two Improvement status, the school would offer choice while continuing to provide supplemental services.

4. AYP: Division Accountability (Critical Element 4.1)

Request: Virginia will identify divisions for improvement only when they do not make AYP in the same subject, same subgroup, and all grade spans (i.e., elementary, middle, and high schools) for two consecutive years. Virginia will 1) monitor divisions that have not made AYP in one or more grade spans but have not been identified for improvement to ensure they are making the necessary curricular and instructional changes to improve achievement, and 2) take steps to ensure supplemental services are available to eligible students from a variety of providers throughout the state (including in divisions that have not been identified for improvement but that have schools that have been in improvement for more than one year).

Rationale: Currently, USED permits states, including Virginia, to identify for division improvement only those divisions that fail to make AYP for two consecutive years in the same subject, but prohibit states from treating subgroups the same way. This model raises reliability concerns given the many subgroups (i.e., seven in Virginia) that could fail to demonstrate AYP for any given year. This policy also fails to recognize the different educational problems that may be evidenced and interventions that may be appropriate in cases where different subgroups fail to demonstrate AYP. A similar problem exists when tests across all grade spans are combined for division accountability. Identifying divisions in improvement based on not making AYP for two consecutive years in the same subject, same subgroup, and grade span will target resources where needed most.

5. Use of Other Academic Indicator for Safe Harbor Only (Critical Elements 3.2, 6.1, and 8.1)

Request: Virginia will comply with Section 1111(b)(2)(I)(i) that states the other academic indicators must be considered only if “safe harbor” is invoked. AYP determinations will be based primarily on meeting or exceeding the annual measurable objectives for reading and mathematics and the 95 percent participation rate requirement. The other academic indicators will be applied only when “safe harbor” is invoked.

Rationale: In March 2004 Virginia proposed basing AYP determinations primarily on meeting the annual measurable objectives for reading and mathematics and the participation rate requirement. The other academic indicators would only be applied when “safe harbor” is invoked. USED stated this amendment conflicts with statutory and regulatory requirements for determining AYP. However, Virginia’s understanding of Section 1111(b)(2)(C)(iv) is the definition of AYP must include an “other academic indicator” but decisions about AYP shall be based primarily on participation rates and student achievement on reading and mathematics assessments. Additionally, it is our interpretation that Section 1111(b)(2)(G) and Section 1111(b)(2)(I)(i) define how AYP is determined, and these sections permit the state and any division or school that meets the 95 percent participation rate and meets or exceeds the annual measurable objectives on the reading and mathematics assessments for all students as well as each subgroup to be designated as making AYP. We believe Section 1111(b)(2)(I)(i) states the other academic indicators must be considered only if “safe harbor” is invoked.

6. Minimum “n” and Division Accountability (Critical Elements 5.5 and 10.2)

Request: Virginia will use either 50 or 1 percent of the enrolled student population, whichever is greater, as the “minimum n” for purposes of calculating AYP and applying the 95 percent participation rate requirement at the division and state levels.

Rationale: Currently, Virginia uses 50 as the minimum n for schools, school divisions, and the state. This policy could result in the state or a large school division not making AYP, overall, due to a small percentage of students in a subgroup not making AYP. For example, in a division with 10,000 students in a tested grade, AYP would be based on all groups with an n-size of 100 or greater. School divisions with 5,000 or fewer students enrolled in tested grades would be held accountable for an n-size of 50.

7. First Score Requirement (Critical Element 3.2)

Request: Virginia will count a student's passing score on an expedited Standards of Learning test in the calculation of AYP. Expedited tests (retests) are provided during the official test administration window and are afforded to students who miss the scheduled administration of the test, or who took the scheduled test and did not pass (but achieved a score between 375-399), or did not pass due to exceptional and mitigating circumstances.

Rationale: Currently, USED allows states to count for AYP only the scores from the first official assessment administration or those taken prior to that time. This is a problem for Virginia, whose high school end-of-course assessments are required for graduation. The school should get credit for students who retake and pass the test in the same year, especially when the results may have been impacted by external factors affecting a student's performance on the test. Virginia believes counting a student's passing score on a retest rewards the student and the school for student success, and will increase the validity and reliability of AYP determinations.

8. Assessing Students with Disabilities (Critical Element 5.3)

Request: Virginia will allow Individualized Education Program (IEP) teams to make determinations about appropriate Standards of Learning (SOL) assessments for special education students whose instructional level is one to three years below grade level. IEP teams will make

determinations based on state guidelines. Students who make gains on statewide SOL assessments equivalent to or in excess of one grade level will have their scores counted towards making AYP.

Rationale: NCLB requires states to “beginning not later than school year 2005-2006, measure the achievement of students against challenging State academic content and student academic achievement standards in each of grades 3-8 in, at a minimum, mathematics, and reading or language arts...” NCLB further requires states to “provide for the participation in such assessments for all students; [and] the reasonable adaptations and accommodations for students with disabilities...necessary to measure the academic achievement of such students relative to State academic content and State academic achievement standards....” Finally, NCLB allows states to “incorporate data from the assessments...into a State-developed longitudinal data system that links student test scores...over time.” Permitting students with disabilities who are being instructed one to three years below grade level to be administered tests that measure the content they are learning meets the NCLB requirement to measure the academic achievement of students relative to state academic content and achievement standards while recognizing the individualized nature and pacing of the instruction received by special education students. Further, allowing the scores of students who achieve one or more years of growth as measured by the SOL assessments to count towards AYP recognizes the achievement of schools and school districts in moving these students toward grade level standards.

<p><i>9. Inclusion of Limited English Proficient Students in State Assessments (Critical Element 5.4)</i></p>
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Request: Virginia will allow the reading component of the English language proficiency (ELP) test required under Title I, and the plain language forms of the statewide mathematics assessments as the academic assessments required under section 1111(b)(3). These assessments will be used to hold a school/division/state accountable for LEP students' academic achievement during their first 1-3 years of enrollment in the U.S. Students who do not achieve a passing score on the mathematics assessment or the reading component of the ELP test would not be counted in the AYP pass rate calculation, but would be

counted toward the 95 percent participation rate calculation. This change will allow Virginia to continue implementing testing policies exempting newly arrived LEP students that are in state regulations and were in effect prior to NCLB.

Consistent with current policy, LEP students in grades 3-8 at the lower levels (Level 1 and Level 2) of English language proficiency will take the Standards of Learning assessments for English/reading and mathematics, with or without accommodations, or state-approved assessments linked to the Standards of Learning. LEP students cannot take assessments linked to the Standards of Learning for more than three consecutive years.

Rationale: Currently, USED requires that all students enrolled be included in state assessments, and that 95 percent of such students (overall and in each subgroup) participate for a school/division/state to demonstrate AYP. This includes LEP students, except when assessing English/reading of students enrolled in the country for the first year, regardless of when they entered the country and their language deficiency. In some instances, however, it is not educationally valid or appropriate for newly enrolled LEP students to participate in English or mathematics state assessments.

<i>10. Graduation Rate and Other Academic Indicator (Critical Element 7.1)</i>

Request: Virginia will define “standard number of years for graduation” as four years or less except for students with disabilities and students with limited English proficiency (LEP) who will be allowed additional time to receive a high school diploma when that length of time is indicated as appropriate in a student’s Individualized Education Program (IEP) or by the student’s school-based LEP team.

Rationale: The Code of Virginia requires school divisions to provide students with disabilities and LEP students of school age a free public education. The age requirement in state and federal laws is consistent. Students with disabilities and students with limited English proficiency have special educational needs that may require additional time for them to meet challenging academic standards and graduation requirements.

Additional Requests for NCLB Policy Revisions

English Language Proficiency Assessment: Exclusion of Kindergarten and First Grade Limited English Proficient (LEP) Students from Reading and Writing English Language Proficiency Assessment Requirement (Definition of LEP Cohort, in September 1, 2003, Submission, as amended on November 24, 2003, and May 26, 2004, p. 14)

Request: Virginia will not require kindergarten and first grade limited English proficient (LEP) students to take the reading and writing components of the English language proficiency assessment. The English language proficiency of kindergarten and first grade LEP students will be assessed only on listening and speaking skills.

Rationale: The federal requirement of assessing the reading and writing ability of kindergarten and first grade LEP students puts an extra burden on young English language learners that is not placed on their native-English speaking peers. The *No Child Left Behind Act of 2001* does not require standardized testing of native English speakers until the 3rd grade. In order to comply with the requirement in the law to assess the English language proficiency of all LEP students as well as provide meaningful information to school divisions and the state about the progress of these students in becoming fully proficient in English, Virginia will assess only their listening and speaking skills. Assessing the reading and writing skills of these students would require a small group or individual administration of the component of the test for each LEP student. The information about these students' English language proficiency that will be gained from the standardized assessment in these two skill areas does not justify the time required to administer the assessment.

***Immigrant Children and Youth Funding Formula under Title III:
Revision of Formula to Reduce State Reservation from 15 percent
to 5 percent (Virginia Consolidated State Application, p.82, d.)***

Request: Virginia will revise the state reservation for Immigrant Children and Youth Funding under Title III: Language Instruction for Limited English Proficient and Immigrant Students from 15 percent to 5 percent.

Rationale: Under section 3114(d)(1) states are required to reserve a percentage of the Title III funding for subgrants to eligible entities that have experienced a significant increase in the percentage or number of immigrant children and youth. Immigrant children and youth are defined as those individuals who: 1) are aged 3 through 21; 2) were not born in any state; and 3) have not been attending one or more schools in any one or more states for more than 3 full academic years. A state may not reserve more than 15 percent for this type of subgrant.

Reducing the state reservation for the immigrant children and youth funding formula from 15 percent to 5 percent will increase the per pupil amount to be awarded through the Title III funds for all limited English proficient (LEP) students. The immigrant children and youth formula funding permits awards only to those school divisions that have experienced a significant increase in the number or percentage of immigrant children and youth as compared to the average of the 2 preceding fiscal years, prior to the fiscal year for which the subgrants are awarded. This requirement has resulted in a significant number of school divisions being ineligible for the immigrant children and youth award even though they enroll immigrant children and youth. A reduction in the state reservation for the award would result in an increase in per pupil funding for LEP students awarded through the Title III funds thus offsetting the potential reduction in immigrant children and youth funding if the school division does not qualify for these funds.

VIRGINIA BOARD OF EDUCATION

Consolidated State Application

***Amended* Accountability Workbook**

for State Grants under Title IX, Part C, Section 9302 of the Elementary and
Secondary Education Act (Public Law 107-110)

Revised: September 10, 2003, Based on USED Conditional Letter of Approval, July 1, 2003
VBOE Letter of Response, August 20, 2003
Section 7.1 and Related Sections

Revised: May 26, 2004, Based on USED Letter of Approval, May 25, 2004
VBOE Letter of Response, June 8, 2004

Revised: January 19, 2005 (Critical Elements: 1.6, 3.2, 4.1, 5.3, 5.4, 5.5, 6.1, 7.1, 8.1, and 10.2)

Final Information



U. S. Department of Education
Office of Elementary and Secondary Education
Washington, D.C. 20202

Instructions for Completing Consolidated State Application Accountability Workbook

By January 31, 2003, States must complete and submit to the Department this Consolidated State Application Accountability Workbook. We understand that some of the critical elements for the key principles may still be under consideration and may not yet be final State policy by the January 31 due date. States that do not have final approval for some of these elements or that have not finalized a decision on these elements by January 31 should, when completing the Workbook, indicate the status of each element which is not yet official State policy and provide the anticipated date by which the proposed policy will become effective. In each of these cases, States must include a timeline of steps to complete to ensure that such elements are in place by May 1, 2003, and implemented during the 2002-2003 school year. By no later than May 1, 2003, States must submit to the Department final information for all sections of the Consolidated State Application Accountability Workbook.

Transmittal Instructions

To expedite the receipt of this Consolidated State Application Accountability Workbook, please send your submission via the Internet as a .doc file, pdf file, rtf or .txt file or provide the URL for the site where your submission is posted on the Internet. Send electronic submissions to conapp@ed.gov.

A State that submits only a paper submission should mail the submission by express courier to:

Celia Sims
U.S. Department of Education
400 Maryland Ave., SW
Room 3W300
Washington, D.C. 20202-6400
(202) 401-0113

PART I: Summary of Required Elements for State Accountability Systems

Instructions

The following chart is an overview of States' implementation of the critical elements required for approval of their State accountability systems. States must provide detailed implementation information for each of these elements in Part II of this Consolidated State Application Accountability Workbook.

For each of the elements listed in the following chart, States should indicate the current implementation status in their State using the following legend:

- F: State has a final policy, approved by all the required entities in the State (e.g., State Board of Education, State Legislature), for implementing this element in its accountability system.
- P: State has a proposed policy for implementing this element in its accountability system, but must still receive approval by required entities in the State (e.g., State Board of Education, State Legislature).
- W: State is still working on formulating a policy to implement this element in its accountability system.

Summary of Implementation Status for Required Elements of
State Accountability Systems

Status	State Accountability System Element	
<u>Principle 1: All Schools</u>		
F	1.1	Accountability system includes <i>all schools and districts in the state</i> .
F	1.2	Accountability system holds <i>all schools to the same criteria</i> .
F	1.3	Accountability system incorporates the <i>academic achievement standards</i> .
F	1.4	Accountability system provides <i>information in a timely manner</i> .
F	1.5	Accountability system includes <i>report cards</i> .
F	1.6	Accountability system includes <i>rewards and sanctions</i> .
<u>Principle 2: All Students</u>		
F	2.1	The accountability system includes <i>all students</i>
F	2.2	The accountability system has a consistent definition of <i>full academic year</i> .
F	2.3	The accountability system properly includes <i>mobile students</i> .
<u>Principle 3: Method of AYP Determinations</u>		
F	3.1	Accountability system expects <i>all student subgroups, public schools, and LEAs to reach proficiency by 2013-14</i> .
F	3.2	Accountability system has a method for determining whether <i>student subgroups, public schools, and LEAs made adequate yearly progress</i> .
F	3.2a	Accountability system establishes a <i>starting point</i> .
F	3.2b	Accountability system establishes <i>statewide annual measurable objectives</i> .
F	3.2c	Accountability system establishes <i>intermediate goals</i> .
<u>Principle 4: Annual Decisions</u>		
F	4.1	The accountability system <i>determines annually the progress</i> of schools and districts.

STATUS Legend:

F – Final state policy

P – Proposed policy, awaiting State approval

W – Working to formulate policy

Principle 5: Subgroup Accountability

F	5.1	The accountability system <i>includes all the required student subgroups</i> .
F	5.2	The accountability system holds <i>schools and LEAs accountable for the progress of student subgroups</i> .
F	5.3	The accountability system includes <i>students with disabilities</i> .
F	5.4	The accountability system includes <i>limited English proficient students</i> .
F	5.5	The State has determined the minimum number of students sufficient to yield statistically reliable information for each purpose for which disaggregated data are used.
F	5.6	The State has strategies to protect the privacy of individual students in reporting achievement results and in determining whether schools and LEAs are making adequate yearly progress on the basis of disaggregated subgroups.

Principle 6: Based on Academic Assessments

F	6.1	Accountability system is based <i>primarily on academic assessments</i> .
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Principle 7: Additional Indicators

F	7.1	Accountability system includes <i>graduation rate for high schools</i> .
F	7.2	Accountability system includes an <i>additional academic indicator for elementary and middle schools</i> .
F	7.3	Additional indicators are valid and reliable.

Principle 8: Separate Decisions for Reading/Language Arts and Mathematics

F	8.1	Accountability system holds students, schools and districts separately accountable for <i>reading/language arts and mathematics</i> .
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Principle 9: System Validity and Reliability

F	9.1	Accountability system produces <i>reliable decisions</i> .
F	9.2	Accountability system produces <i>valid decisions</i> .
F	9.3	State has a plan for addressing <i>changes in assessment and student population</i> .

Principle 10: Participation Rate

F	10.1	Accountability system has a means for calculating the <i>rate of participation</i> in the statewide assessment.
F	10.2	Accountability system has a means for <i>applying the 95% assessment criteria to student subgroups and small schools</i> .

STATUS Legend:

F – Final policy

P – Proposed Policy, awaiting State approval

W– Working to formulate policy

PART II: State Response and Activities for Meeting State Accountability System Requirements

Instructions

In Part II of this Workbook, States are to provide detailed information for each of the critical elements required for State accountability systems. States should answer the questions asked about each of the critical elements in the State's accountability system. States that do not have final approval for any of these elements or that have not finalized a decision on these elements by January 31, 2003, should, when completing this section of the Workbook, indicate the status of each element that is not yet official State policy and provide the anticipated date by which the proposed policy will become effective. In each of these cases, States must include a timeline of steps to complete to ensure that such elements are in place by May 1, 2003, and implemented during the 2002-2003 school year. By no later than May 1, 2003, States must submit to the Department final information for all sections of the Consolidated State Application Accountability Workbook.

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
1.6 How does the State Accountability System include rewards and sanctions for public schools and LEAs? ¹	<p>State uses one or more types of rewards and sanctions, where the criteria are:</p> <ul style="list-style-type: none"> • Set by the State; • Based on adequate yearly progress decisions; and, • Applied uniformly across public schools and LEAs 	State does not implement rewards or sanctions for public schools and LEAs based on adequate yearly progress

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

STATUS: F

The Board of Education has a system of providing special recognition to schools showing marked improvement in student achievement over time. Recognitions are fully described at <http://www.pen.k12.va.us/VDOE/Accountability/soafulltxt.pdf>, p.41, and are summarized below:

- Public announcements
- Waivers from certain state regulations
- Tangible rewards

These rewards will be applied to all schools consistently making AYP. In addition, Virginia will apply rewards to schools receiving Title I, Part A, funding in a manner consistent with NCLB section 1117(b).

~~A Title I school or an LEA will be identified for improvement/corrective action and sanctions in accordance with NCLB if it does not make AYP in the same subject area for two or more consecutive years. A non-Title I school will be identified for sanctions if it does not make AYP in the same subject area for two or more consecutive years.~~

Virginia will identify for improvement/corrective action and sanctions in accordance with NCLB only those Title I schools that fail to make AYP for two or more consecutive years in the same subject and for the same subgroup. A non-Title I school will be identified for sanctions if it does not make AYP in the same subject area and the same subgroup for two or more consecutive years. Identifying schools in improvement based on not making AYP for two consecutive years in the same subject and same subgroup will target resources where needed most.

Virginia will identify divisions for improvement only when they do not make AYP in the same subject, same subgroup, and all grade spans (i.e., elementary, middle, and high schools) for two consecutive years. Virginia will 1) monitor divisions that have not made AYP in one or more grade spans but have not been identified for improvement to ensure they are making the necessary curricular and instructional changes to improve achievement, and 2) take steps to ensure supplemental services are available to eligible students from a variety of providers throughout the state (including in divisions that have not been identified for improvement but that have schools that have been in improvement for more than one year).

¹ The state must provide rewards and sanctions for all public schools and LEAs for making adequate yearly progress, except that the State is not required to hold schools and LEAs not receiving Title I funds to the requirements of section 1116 of NCLB [§200.12(b)(40)].

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

Virginia identified 34 Title I schools for school improvement status for the 2002-2003 school year. Sanctions were applied consistent with NCLB section 1116(b). Virginia will continue to incorporate sanctions for Title I schools consistent with NCLB and final regulations issued November 26, 2002, as follows:

- apply AYP requirements to all schools and LEAs consistent with 1111(b)(2)(B) and as described in Principles 3, 4, 5, and 6 of this consolidated application workbook;
- apply sanctions to schools and LEAs receiving Title I, Part A, funding in a manner consistent with NCLB sections 1116(b) and 1116(c), respectively **with the following flexible options:**
 - **Virginia will target supplemental educational services and public school choice to the subgroup(s) and individual students that need the most help. Virginia will identify students and schools who are most in need by distinguishing between schools failing to make AYP for the entire student body and schools that achieve AYP for the entire student body but fail to meet it for a particular subgroup. Choice and supplemental services will apply to the subgroup(s) and individual students not making AYP.**
 - **Virginia will allow schools the flexibility to reverse the order of sanctions in the first two years of school improvement. Supplemental educational services may be offered to eligible students attending schools in improvement in the first year and public school choice in the second year. An effective school choice plan requires time to develop and communicate to parents and the public. AYP is calculated using test scores from the spring administration and, therefore, AYP determinations are not available until late July or early August. This is too close to the opening of school for choice plans to be implemented effectively. A more effective intervention strategy for the first year of improvement is offering eligible students supplemental services while planning for choice implementation. If the school moves to Year Two Improvement status, the school would offer choice while continuing to provide supplemental services.**

Sanctions for non-Title I schools are as follows:

Not making AYP for two consecutive years in the same subject area **and same subgroup**

- Analyze relevant data.
- Develop a school improvement plan or revise the current school improvement plan to include strategies and use of resources that address the area of need, consistent with guidelines determined by the LEA. If the area of need is reading, the school improvement plan must address whether its instructional model is consistent with Reading First requirements and scientifically-based research in reading.

Not making AYP for subsequent consecutive years in the same subject area **and same subgroup**

- Continue to analyze data and revise the school improvement plan.
- Take additional corrective actions specified by the LEA.

Beginning with the 2002-2003 school year, division-wide student performance data will be compiled to identify divisions (LEAs) not making AYP. Data from successive years will be used to determine whether or not the LEA is identified for improvement. Rewards and sanctions will be applied to LEAs in improvement consistent with NCLB section 1116(c).

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
<p>3.2 How does the State Accountability System determine whether each student subgroup, public school and LEA makes AYP?</p>	<p>For a public school and LEA to make adequate yearly progress, each student subgroup must meet or exceed the State annual measurable objectives, each student subgroup must have at least a 95% participation rate in the statewide assessments, and the school must meet the State's requirement for other academic indicators.</p> <p>However, if in any particular year the student subgroup does not meet those annual measurable objectives, the public school or LEA may be considered to have made AYP, if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments for that year decreased by 10% of that percentage from the preceding public school year; that group made progress on one or more of the State's academic indicators; and that group had at least 95% participation rate on the statewide assessment.</p>	<p>State uses different method for calculating how public schools and LEAs make AYP.</p>

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS
<p>STATUS: F</p> <p>Statewide assessments include the following:</p> <ul style="list-style-type: none"> Standards of Learning tests, including the Substitute Standards of Learning Evaluation Program for Certain Students with Disabilities Who Cannot Be Accommodated on Standards of Learning Tests; and state-approved assessments linked directly to Standards of Learning, as described in Critical Element 5.4 Board-approved substitute tests listed at http://www.pen.k12.va.us/VDOE/Instruction/subassessment.pdf

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

- Alternate assessments measured against alternate achievement standards, required by the 1997 IDEA, taken by some students with disabilities and described at <http://www.pen.k12.va.us/VDOE/Instruction/Sped/spedsol.html>
- Alternate assessments measured against regular achievement standards as described in the March 20, 2003 Federal Register, taken by some students with disabilities, as described in Critical Element 5.3

Virginia allows high school students to use nationally recognized assessments such as Advanced Placement, International Baccalaureate, and SAT II subject tests as substitutes for the related Standards of Learning tests. The Board of Education approves the use of all substitute tests following an extensive review and standards-setting process that involves Department of Education staff and the Board of Education's Assessment and Accountability Advisory Committee. All substitute tests measure content that incorporates or exceeds the related Standards of Learning content. The number of students who take and pass substitute tests is calculated into AYP determinations in the same way as all other state assessments.

More information is available at <http://www.pen.k12.va.us/VDOE/suptsmemos/2003/inf206a.pdf>.

The State Accountability System will examine the data annually for assessments in each of the two content areas and other academic indicators by student subgroup, public school, and school division to determine if Adequate Yearly Progress has been made, consistent with section 1111(b)(2). The *Regulations Establishing Standards for Accrediting Public Schools in Virginia* specify that each student shall be expected to take the Standards of Learning tests in kindergarten through eighth grade, and that each student in middle and secondary schools shall take all applicable end-of-course SOL tests following course instruction. Each method of calculating and examining AYP as presented in the law and in the regulations issued on November 26, 2002 will be applied, and the results reviewed for each subgroup, public school, and school division.

Specifically, for a public school and school division to make adequate yearly progress, all students and each student subgroup must meet or exceed the State annual measurable objectives for statewide assessments in reading and mathematics; all students and each student subgroup must have at least a 95% participation rate in the se statewide assessments; and the school must meet the State's annual measurable objective for graduation rate (for schools with a graduating class) or attendance rate or science (for elementary and middle schools and schools without a graduating class) or make progress toward meeting those objectives. School divisions must meet or make progress toward meeting the State's annual measurable objectives for graduation rate and attendance rate or science. However, if in any particular year the student subgroup does not meet the annual measurable objectives for the reading and mathematics assessments, the public school or school division may be considered to have made AYP, if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the Standards of Learning assessments for that year decreased by 10% of that percentage from the preceding public school year; that group made progress on the additional indicators at the school level or, for school divisions, in both; and that group had at least 95% participation rate on the statewide assessments.

In compliance with USED directives, Virginia will follow the procedures for calculating adequate yearly progress (AYP) stated above as approved by USED in the September 10, 2003, amended workbook. As a statement of public record, let it be clear that Virginia is "agreeing" to this directive only because the USED has made it clear it is mandating it. Virginia will comply with Section 1111(b)(2)(I)(i) that states the other academic indicators must be considered only if "safe harbor" is invoked. AYP determinations will be based primarily on meeting or exceeding the annual measurable objectives for reading and mathematics and the 95 percent participation rate requirement. The other academic indicators will be applied only when "safe harbor" is invoked.

Virginia's understanding of Section 1111(b)(2)(C)(iv) is that the definition of AYP must include an "other academic indicator" but decisions about AYP shall be based primarily on participation rates and student achievement on reading and mathematics assessments. Additionally, It is our interpretation that Section 1111(b)(2)(G) and Section 1111(b)(2)(I)(i) define how AYP is determined, and these sections permit the

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

~~state and any division or school that meets the 95 percent participation rate and meets or exceeds the annual measurable objectives on the reading and mathematics assessments for all students as well as each subgroup to be designated as making AYP. We believe Section 1111(b)(2)(I)(i) states the other academic indicators must be considered only if "safe harbor" is invoked.~~

Consistent with current practice, assessment data for a content area will be combined across all tested grade levels or all tested courses in a school, LEA and the state to calculate participation rate and percent of students (first-time test takers) scoring at least proficient when determining whether or not AYP has been made in that content area.

~~In compliance with USED directives, Virginia will follow procedures for calculating adequate yearly progress (AYP) described above as approved by USED in the September 10, 2003, amended workbook. Virginia will include only the scores from the first official assessment administration or those taken prior to that time in determining AYP. As a statement of public record, let it be clear that Virginia is "agreeing" to this directive only because the USED has made it clear it is mandating it. We believe counting a student's passing score on a retest rewards the student and the school for successful remedial efforts.~~

Virginia will count a student's passing score on an expedited Standards of Learning test in the calculation of AYP. Expedited tests (retests) are provided during the official test administration window and are afforded to students who miss the scheduled administration of the test, or who took the scheduled test and did not pass (but achieved a score between 375-399), or did not pass due to exceptional and mitigating circumstances. Counting for AYP only the scores from the first administration is a problem for Virginia, whose high school end-of-course assessments are required for graduation. The school should get credit for students who retake and pass the test in the same year, especially when the results may have been impacted by external factors affecting a student's performance on the test. Virginia believes counting a student's passing score on a retest rewards the student and the school for student success, and will increase the validity and reliability of AYP determinations.

Should the federal regulations or USED directives on calculating AYP for students with disabilities and students with limited English proficiency change, in the alternative, the Virginia SEA would request to calculate AYP determinations for the current academic year, 2002-2003, based upon SOL testing policies for student participation as legally required by current Virginia regulations that schools have followed since 1997. The Virginia SEA believes Virginia's proposed alternative is sound and a fair policy for determining AYP.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

Beginning with data from the 2002-2003 school year, school-level and division-level data regarding student pass rates [first-time test takers in the aggregate and for each subgroup identified in section 1111(b)(2)(c)] on statewide assessments, graduation rate (secondary schools and division), and attendance rate or science (elementary, middle schools and division) will be analyzed to determine whether or not each school/LEA and the state has made AYP for that year. Schools and LEAs not making AYP will be identified for improvement or corrective action in a manner consistent with sections 1116(b) and 1116(c) of NCLB, **respectively, and as described under Critical Element 1.6 of this consolidated application accountability workbook.** In addition, schools and LEAs receiving Title I, Part A funding will receive sanctions in a manner consistent with sections 1116(b) and 1116(c) of NCLB, respectively, and as described under Critical Element 1.6 of this consolidated application workbook. Schools exceeding AYP will be identified for recognitions. In addition, schools receiving Title I, Part A funding will receive recognition in a manner consistent with section 1117(b) of NCLB and as described and as described under Critical Element 1.6 of this consolidated application workbook.

Consistent with current practice, assessment data for a content area will be combined across all tested grade levels or all tested courses in a school, LEA and the state to calculate participation rate and percent of students scoring at least proficient when determining whether or not AYP has been made in that content area.

Beginning with the 2002-2003 school year, division-wide student performance data will be used to identify divisions making or not making adequate yearly progress.

PRINCIPLE 4. State makes annual decisions about the achievement of all public schools and LEAs.

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
4.1 How does the State Accountability System make an annual determination of whether each public school and LEA in the State made AYP?	AYP decisions for each public school and LEA are made annually. ³	AYP decisions for public schools and LEAs are not made annually.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

STATUS: F

In September 2000, the Board of Education refined its *Regulations Establishing Standards for Accrediting Public Schools in Virginia*, hereafter referred to as the Standards of Accreditation. The overriding goal of the Standards of Accreditation is to link statewide criterion-referenced tests to the Standards of Learning and to hold all students, all schools, and all LEAs accountable for results. The text of the Standards of Accreditation can be found at

<http://www.pen.k12.va.us/VDOE/Accountability/soafulltxt.pdf>.

Under this accountability system, certain percentages of students schoolwide must score at least at the proficient level on statewide assessments in each of the four content areas (mathematics, science, English [reading/language arts], and history and the social sciences) for schools to be eligible to receive one of four accreditation ratings.

The Standards of Accreditation phase in, from 2000-2001 through 2003-2004, increasing student pass rate requirements called benchmarks that determine which of the accreditation ratings listed below is assigned to an individual school. The established annual benchmarks and accompanying ratings are found at <http://www.pen.k12.va.us/VDOE/Accountability/soafulltxt.pdf>, p. 44.

The specific accreditation ratings, fully described at <http://www.pen.k12.va.us/VDOE/Accountability/soafulltxt.pdf>, p. 37, are summarized below:

Fully Accredited: at least 70 percent of students score proficient or better (pass) in each of four content areas, English (reading/language arts), mathematics, science, history/social sciences (except that grade 3 science and history/social sciences are not required to be factored in until 2003-2004)

Provisionally Accredited/Meets State Standards: the lowest schoolwide student pass rate is no lower than the benchmark in any one of the four content areas

Provisionally Accredited/Needs Improvement: the lowest schoolwide student pass rate is between 1 percent and 19 percent below the benchmark in any one of the four content areas

Accredited with Warning: the lowest schoolwide student pass rate is 20 percent or more below the benchmark in any one of the four content areas

Schools that have no tested grades are paired with other schools that serve students who attended those “non-testing” schools in a feeder relationship for accreditation and AYP determinations.

³ Decisions may be based upon several years of data and data may be averaged across grades within a public school [§1111(b)(2)(J)].

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

Beginning with data from the 2002-2003 school year, school-level and division-level data regarding student pass rates [first-time test takers in the aggregate and for each subgroup identified in section 1111(b)(2)(c)] on statewide assessments, graduation rate (secondary schools and division), and attendance rate or science (elementary, middle schools and division) will be analyzed to determine whether or not each school/LEA and the state has made AYP for that year. Schools and LEAs not making AYP will be identified for improvement or corrective action in a manner consistent with sections 1116(b) and 1116(c) of NCLB, **respectively, and as described under Critical Element 1.6 of this consolidated application accountability workbook.** In addition, schools and LEAs receiving Title I, Part A funding will receive sanctions in a manner consistent with sections 1116(b) and 1116(c) of NCLB, respectively, and as described under Critical Element 1.6 of this consolidated application workbook. Schools exceeding AYP will be identified for recognitions. In addition, schools receiving Title I, Part A funding will receive recognition in a manner consistent with section 1117(b) of NCLB and as described and as described under Critical Element 1.6 of this consolidated application workbook.

Consistent with current practice, assessment data for a content area will be combined across all tested grade levels or all tested courses in a school, LEA and the state to calculate participation rate and percent of students scoring at least proficient when determining whether or not AYP has been made in that content area.

Beginning with the 2002-2003 school year, division-wide student performance data will be used to identify divisions making or not making adequate yearly progress.

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENT	EXAMPLES OF NOT MEETING REQUIREMENTS
5.3 How are students with disabilities included in the State's definition of adequate yearly progress?	<p>All students with disabilities participate in statewide assessments: general assessments with or without accommodations or an alternate assessment based on grade level standards for the grade in which students are enrolled.</p> <p>State demonstrates that students with disabilities are fully included in the State Accountability System.</p>	<p>The State Accountability System or State policy excludes students with disabilities from participating in the statewide assessments.</p> <p>State cannot demonstrate that alternate assessments measure grade-level standards for the grade in which students are enrolled.</p>

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

STATUS: F

Students with disabilities comprise one of the subgroups addressed in Critical Element 5.1. All students with disabilities will participate in the state assessment program either through the Standards of Learning assessments, with or without accommodations, or through the Virginia Alternate Assessment Program.

Virginia will allow Individualized Education Program (IEP) teams to make determinations about appropriate Standards of Learning (SOL) assessments for special education students whose instructional level is one to three years below grade level. IEP teams will make determinations based on state guidelines. Students who make gains on statewide SOL assessments equivalent to or in excess of one grade level will have their scores counted towards making AYP. Permitting students with disabilities who are being instructed one to three years below grade level to be administered tests that measure the content they are learning meets the NCLB requirement to measure the academic achievement of students relative to state academic content and achievement standards while recognizing the individualized nature and pacing of the instruction received by special education students. Further, allowing the scores of students who achieve one or more years of growth as measured by the SOL assessments to count towards AYP recognizes the achievement of schools and school districts in moving these students toward grade level standards.

Virginia will continue to assess students with the most significant cognitive disabilities with alternate assessments that are measured against alternate achievement standards defined under Sec. 200.1(d) 34 CFR Part 200, Title I – Improving the Academic Achievement of the Disadvantaged; Proposed Rule (Federal Register: March 20, 2003) and aligned with Virginia's academic content standards. These alternate achievement standards are based upon the educational needs of students as identified by their IEP teams properly convened under the IDEA and reflecting the professional judgment of the highest learning standards possible for these students. For accountability purposes, the number or percentage of students with the most significant cognitive disabilities taking these alternate assessments as defined in Sec. 200.1(d) is not expected to exceed the limit established under federal regulations. Virginia will not adopt policies that limit the number or type of students with disabilities who can take such alternate assessments. Scores from both the Standards of Learning assessments and the alternate assessment for students with the most significant cognitive disabilities will be included in the calculations of adequate yearly progress (AYP) for schools, school divisions and the state. Effective with the 2002-2003 academic year, the USED has directed Virginia to limit to 1% the number of scores from these alternate

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

assessments for children with the most severe cognitive disabilities that can be counted as proficient in AYP calculations. As a statement of public record, let it be clear that Virginia is “agreeing” to this directive under protest and only because the USED has made it clear it is mandating it.

In addition, Virginia will develop and administer alternate assessments measured against achievement standards as defined in Sec. 200.1(c) of the final Title I regulations for standards and assessments (Federal Register: July 5, 2002) as determined appropriate by their IEP teams, for students with disabilities, as defined under section 1401(3) of the IDEA, who cannot participate in all or part of the state Standards of Learning assessments in English/reading, mathematics, and science, even with appropriate accommodations. These alternate assessments will be designed to yield results for the grade in which the student is enrolled. For accountability purposes, the number or percentage of students taking these alternate assessments measured against achievement standards as defined in proposed Sec. 200.1(c), as determined appropriate by their IEP teams, will not be limited. Scores of students participating in the newly-developed alternate assessments also will be included in the calculations of adequate yearly progress (AYP) for schools, school divisions and the state.

To ensure accountability, Virginia will monitor the percentages of students with disabilities taking these alternate assessments to ensure that all students with disabilities are appropriately included in Virginia's Standards of Learning assessment program.

~~As directed by USED, beginning in the 2003-2004 academic year, students with disabilities participating in local assessments, as deemed appropriate by IEP teams under IDEA and under Virginia Board of Education regulations, will be counted as non-participants when calculating participation rates, even though school divisions were following testing policies required in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*. As a statement of public record, let it be clear that Virginia is “agreeing” to this directive under protest and only because the USED has made it clear it is mandating it.~~

Consistent with USED requirements of all states, newly-developed assessments will be used for measuring students' proficiency after they have been approved through the USED Standards and Review process.

Documentation:

Regulations Governing Special Education Programs for Children with Disabilities in Virginia, approved by the U.S. Department of Education, Office of Special Education Programs, are consistent with requirements under the Individuals with Disabilities Education Act (IDEA) for the participation of students with disabilities in statewide assessment programs (8 VAC 20-80-62 E.5). The regulations are found at <http://www.pen.k12.va.us/VDOE/Instruction/Sped/varegs.pdf>.

Guidelines for the Participation of Students with Disabilities in the Assessment Component of Virginia's Accountability System, adopted by the Board of Education September 26, 2002, requires that all students with disabilities be included in the state accountability system through the Standards of Learning Assessments, with or without accommodations, or the Virginia Alternate Assessment program. The procedures also state the requirement that at least 95% of students with disabilities participate in assessments that measure adequate yearly progress of schools. The guidelines may be found at <http://www.pen.k12.va.us/VDOE/suptsmemos/2002/inf140a.pdf>

Virginia Department of Education's Procedures for Participation of Students with Disabilities in the Assessment Component of Virginia's Accountability System provides procedural guidance to LEAs in including students with disabilities in the state assessment program. This document describes standard and non-standard accommodations. The procedures may be found at <http://www.pen.k12.va.us/VDOE/suptsmemos/2002/inf140b.pdf>

A description of the current Virginia Alternate Assessment program may be found at <http://www.pen.k12.va.us/VDOE/Assessment/Assess.PDF/imp-manual.pdf>

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
5.4 How are students with limited English proficiency included in the State's definition of adequate yearly progress?	<p>All LEP students participate in statewide assessments: general assessments with or without accommodations or a native language version of the general assessment based on grade level standards.</p> <p>State demonstrates that LEP students are fully included in the State Accountability System.</p>	LEP students are not fully included in the State Accountability System.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

STATUS: F

Effective with the 2003-2004 academic year, all limited English proficient (LEP) students will participate in the Virginia state assessment program. LEP students in grades 3-8 at the lower levels (Level 1 and Level 2) of English language proficiency will take the Standards of Learning assessments for English/reading and mathematics, with or without accommodations, or state-approved assessments linked to the Standards of Learning, such as those described below. LEP students cannot take assessments linked to the Standards of Learning for more than three consecutive years.

Additionally, LEP students in their first 1 to 3 years of enrollment in a U.S. school regardless of their English language proficiency level may take the Standards of Learning assessments for English/reading and mathematics, with or without accommodations, or state-approved assessments linked to the Standards of Learning. In other words, Virginia will allow the reading component of the English language proficiency (ELP) test required under Title I, and the plain language forms of the statewide mathematics assessments as the academic assessments required under section 1111(b)(3) for LEP students' academic achievement during their first 1-3 years of enrollment in the U.S.

LEP students who were enrolled on the first day of school and in continuous membership until the test administration will be considered as in their first year of enrollment in a U.S. school. Decisions regarding LEP student participation in the state assessment program will be guided by the school-based committee as described in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*, 8 VAC 131-30 G.

~~Virginia is one of 17 states that received funding as a consortium under a USED Enhanced Assessment Instruments Grant for development of an English Language Proficiency Assessment. The consortium, under the auspices of the Council of Chief State School Officers (CCSSO), is developing an English Language Proficiency (ELP) assessment that will be linked to the English Standards of Learning. The assessment instrument will be available for implementation statewide by spring 2004-2005.~~ For the 2003-2005 school years, the Stanford English Language Proficiency (SELP) test will be designated as the state-approved assessment instrument linked directly to the English/reading Standards of Learning. The Board of Education may approve the use of additional English Language Proficiency assessments that are linked to Standards of Learning grade-level content

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

standards.

In compliance with USED directives, for purposes of calculating adequate yearly progress (AYP) for 2002-2003, Virginia students who were given a one-time exemption from taking the English or mathematics Standards of Learning tests will be counted as non-participating even though school divisions were following testing policies required in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*. As a statement of public record, let it be clear that Virginia is “agreeing” to this directive under protest and only because the USED has made it clear it is mandating it.

Beginning with the 2003-2004 school year, the scores of LEP students during their first 1 to 3 years of enrollment in a U.S. school on the English/reading and mathematics Standards of Learning assessments or assessments linked to the Standards of Learning will be counted toward the 95% participation rate for the purposes of AYP, but they will not be included in the AYP calculations. **Students who do not achieve a passing score on the mathematics assessment or the reading component of the ELP test would not be counted in the AYP pass rate calculation. This change will allow Virginia to continue implementing testing policies exempting newly arrived LEP students that are in state regulations and were in effect prior to NCLB.**

Beginning with the 2003-2004 school year, for purposes of AYP calculations only, LEP students will be counted in the LEP subgroup for two years after they have been reclassified as non-LEP.

Consistent with USED requirements of all states, newly-developed assessments will be used for measuring students' proficiency after they have been approved through the USED Standards and Review process.

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
5.5 What is the State's definition of the minimum number of students in a subgroup required for reporting purposes? For accountability purposes?	<p>State defines the number of students required in a subgroup for reporting and accountability purposes, and applies this definition consistently across the State.⁴</p> <p>Definition of subgroup will result in data that are statistically reliable.</p>	<p>State does not define the required number of students in a subgroup for reporting and accountability purposes.</p> <p>Definition is not applied consistently across the State.</p> <p>Definition does not result in data that are statistically reliable.</p>

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

STATUS: F

Minimum Number Used to Determine Adequate Yearly Progress (AYP)

Given the task of identifying the minimum number of students necessary (both in the aggregate and by subgroups) to ensure that information used to make decisions about AYP is sufficiently valid and reliable, Virginia identified the following challenges:

- To identify low performing schools without inappropriately identifying successful schools or permitting unsuccessful schools to avoid accountability
- To select a number that does not allow for an unacceptable degree of variability and that does not exclude an unacceptable number of students

To accomplish the task, processes were established to answer the following questions;

- At what number does the gain in reliability (stability) from having more students level off?
- What number is so high that an unacceptable number of groups or subgroups will be excluded from AYP?

Research determined that various approaches are used to identify a number of data points (or data sets) below which results may be unreliable. Student performance on Virginia's statewide assessments was analyzed to reveal trend stability data and potential student exclusion patterns.

The challenge in choosing a minimum n-count is in selecting a number that is large enough to minimize the year-to-year fluctuations due to differences in the cohort groups and also small enough so that large numbers of students and even schools are not excluded from the accountability system. In making this decision, technical, practical, and policy considerations must be balanced.

Given the challenges and guiding questions noted at the beginning of this section, Virginia will use 50 as the minimum n for the purposes of determining AYP **at the school level**. While the expectation is that all students will participate in statewide assessments no matter the number of these students, if fewer than 50 students are in a group or subgroup, the performance of the group will be included in the "all students" group and not included as a subgroup when making AYP determinations. It will be presumed that these students will have made AYP, in accordance with federal guidance on this issue. These

⁴ The minimum number is not required to be the same for reporting and accountability.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

students will also be included in aggregate and disaggregated AYP calculations at the next highest level of accountability (LEA level and/or state level).

Data and explanations supporting this decision are found in Attachment B at the end of this document.

Virginia will use either 50 or 1 percent of the enrolled student population, whichever is greater, as the “minimum n” for purposes of calculating AYP and applying the 95 percent participation rate requirement at the division and state levels. Virginia uses 50 as the minimum n for schools. However, this policy could result in the state or a large school division not making AYP, overall, due to a small percentage of students in a subgroup not making AYP. For example, in a division with 10,000 students in a tested grade, AYP would be based on all groups with an n-size of 100 or greater. School divisions with 5,000 or fewer students enrolled in tested grades would be held accountable for an n-size of 50.

Consistent with current practice, assessment data for a content area will be combined across all tested grade levels or all tested courses in a school, LEA and the state to calculate participation rate and minimum n for AYP purposes.

Minimum Number Used for Reporting Purposes

While the expectation is that all students will participate in statewide assessments no matter the number of these students, if fewer than 10 students are in a group or subgroup, the performance of the groups or subgroups will not be reported. Although from a statistical perspective, a minimum subgroup size of three protects the identity of the subgroup members, a minimum of 10 students in a group or subgroup will ensure that individual students are not personally identifiable.

Consistent with current practice, assessment data for a content area will be combined across all tested grade levels or all tested courses in a school, LEA and the state to calculate participation rate and minimum n for reporting purposes.

This number is consistent with the policy of a number of other state education agencies. While some agencies have identified higher reporting thresholds, a minimum number of 10 students will meet the requirements of No Child Left Behind while providing a comfort zone of confidentiality and ensuring compliance with the provisions of the Family Educational Rights and Privacy Act.

PRINCIPLE 6. State definition of AYP is based primarily on the State's academic assessments.

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
6.1 How is the State's definition of adequate yearly progress based primarily on academic assessments?	<p>Formula for AYP shows that decisions are based primarily on assessments.⁶</p> <p>Plan clearly identifies which assessments are included in accountability.</p>	Formula for AYP shows that decisions are based primarily on non-academic indicators or indicators other than the State assessments.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

STATUS: F

The indicators used to determine AYP are:

1. Student performance on statewide assessments in reading/language arts. Statewide assessments include the following:
 - Standards of Learning tests, including the Substitute Standards of Learning Evaluation Program for Certain Students with Disabilities Who Cannot Be Accommodated on Standards of Learning Tests; and state-approved assessments linked directly to Standards of Learning, as described in Critical Element 5.4
 - Board-approved substitute tests listed at <http://www.pen.k12.va.us/VDOE/Instruction/subassessment.pdf>
 - Alternate assessments measured against alternate achievement standards, required by the 1997 IDEA, taken by some students with disabilities and described at <http://www.pen.k12.va.us/VDOE/Instruction/Sped/spedsol.html>
 - Alternate assessments measured against regular achievement standards as described in the March 20, 2003 Federal Register, taken by some students with disabilities, as proposed in Critical Element 5.3
2. Student performance on statewide assessments in mathematics. Statewide assessments include the following:
 - Standards of Learning tests, including the Substitute Standards of Learning Evaluation Program for Certain Students with Disabilities Who Cannot Be Accommodated on Standards of Learning Tests; and state-approved assessments linked directly to Standards of Learning, as described in Critical Element 5.4
 - Board-approved substitute tests listed at <http://www.pen.k12.va.us/VDOE/Instruction/subassessment.pdf>
 - Alternate assessments measured against alternate achievement standards, required by the 1997 IDEA, taken by some students with disabilities and described at <http://www.pen.k12.va.us/VDOE/Instruction/Sped/spedsol.html>
 - Alternate assessments measured against regular achievement standards as described in the March 20, 2003 Federal Register, taken by some students with disabilities, as proposed in Critical Element 5.3

⁶ State Assessment System will be reviewed by the Standards and Assessments Peer Review Team.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

3. Graduation rate for secondary schools and any school having a graduating class. Graduation rate is defined in Critical Element 7.1 of this consolidated application workbook.

4. Attendance rate or science for elementary and middle schools and any school not having a graduating class.

- a. Attendance rate is defined in Critical Element 7.2 of this consolidated application workbook.
- b. Student performance on statewide assessments in science. Statewide assessments include the following:
 - Standards of Learning tests, including the Substitute Standards of Learning Evaluation Program for Certain Students with Disabilities Who Cannot Be Accommodated on Standards of Learning Tests; and state-approved assessments linked directly to Standards of Learning, as described in Critical Element 5.4
 - Board-approved substitute tests listed at <http://www.pen.k12.va.us/VDOE/Instruction/subassessment.pdf>
 - Alternate assessments measured against alternate achievement standards, required by the 1997 IDEA, taken by some students with disabilities and described at <http://www.pen.k12.va.us/VDOE/Instruction/Sped/spedsol.html>
 - Alternate assessments measured against regular achievement standards as described in the March 20, 2003 Federal Register, taken by some students with disabilities, as proposed in Critical Element 5.3

Consistent with section 1111(b)(2)(G) of NCLB and final Title I regulations issued November 26, 2002, one set of annual measurable objectives has been established for each of reading/language arts, mathematics, graduation rate (for secondary schools and any school having a graduating class), and for attendance rate or science (for elementary schools, middle schools, and any school not having a graduating class). Annual measurable objectives for each of the aforementioned indicators have been established for each school year beginning in 2002-2003 and ending in 2013-2014, and annual objectives may or may not increase at equal increments.

Annual measurable objectives for all indicators are described in Critical Element 3.2b. These are the annual objectives for all students in the aggregate and for each subgroup identified in section 1111(b)(2)(C) of NCLB; for all schools; for all LEAs; and for the State.

For a school, LEA or the state to make adequate yearly progress the following conditions must exist, consistent with NCLB and final Title I regulations issued November 26, 2002:

At least 95% of the students (in the aggregate and by subgroups) enrolled in the course or grade level for which there are statewide assessments in reading/language arts and mathematics participate in each of those statewide assessments; AND

- the pass rate for all students and all subgroups of students on reading/language arts assessments must be at least at the level of the annual measurable objective; AND
- the pass rate for all students and all subgroups of students on mathematics assessments must be at least at the level of the annual measurable objective; AND
- schoolwide (or divisionwide or statewide), students must be at the annual measurable objective for the other academic indicator(s) (graduation rate and/or attendance rate or science) or have made progress in the indicator(s);

OR, consistent with the "safe harbor" provision of NCLB,

- the pass rate for all students or for any subgroup(s) of students on reading/language arts assessments is below the annual measurable objective; AND/OR
- the pass rate for all students or for any subgroup(s) of students on mathematics assessments is below the annual measurable objective; AND
- the failure rate(s) of those students has been reduced by at least 10% from the year before on that assessment; AND

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

- the students have made progress in the other academic indicator(s) (graduation rate and/or attendance rate or science).

~~In compliance with USED directives, Virginia will follow the procedures for calculating adequate yearly progress (AYP) stated above as approved by USED in the September 10, 2003, amended workbook. As a statement of public record, let it be clear that Virginia is "agreeing" to this directive only because the USED has made it clear it is mandating it. Virginia will comply with Section 1111(b)(2)(l)(i) that states the other academic indicators must be considered only if "safe harbor" is invoked. AYP determinations will be based primarily on meeting or exceeding the annual measurable objectives for reading and mathematics and the 95 percent participation rate requirement. The other academic indicators will be applied only when "safe harbor" is invoked.~~

~~Virginia's understanding of Section 1111(b)(2)(C)(iv) is that the definition of AYP must include an "other academic indicator" but decisions about AYP shall be based primarily on participation rates and student achievement on reading and mathematics assessments. Additionally, It is our interpretation that Section 1111(b)(2)(G) and Section 1111(b)(2)(l)(i) define how AYP is determined, and these sections permit the state and any division or school that meets the 95 percent participation rate and meets or exceeds the annual measurable objectives on the reading and mathematics assessments for all students as well as each subgroup to be designated as making AYP. We believe Section 1111(b)(2)(l)(i) states the other academic indicators must be considered only if "safe harbor" is invoked.~~

Consistent with current practice, assessment data for a content area will be combined across all tested grade levels or all tested courses in a school, LEA and the state to calculate participation rate and percent of students scoring at least proficient when determining whether or not AYP has been made in that content area.

A school, LEA or the State cannot be determined to have made adequate yearly progress if students, either in the aggregate or by subgroups, meet only the annual measurable objectives for graduation rate and/or attendance rate or science.

PRINCIPLE 7. State definition of AYP includes graduation rates for public High schools and an additional indicator selected by the State for public Middle and public Elementary schools (such as attendance rates).

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
7.1 What is the State definition for the public high school graduation rate?	<p>State definition of graduation rate:</p> <ul style="list-style-type: none"> • Calculates the percentage of students, measured from the beginning of the school year, who graduate from public high school with a regular diploma (not including a GED or any other diploma not fully aligned with the state's academic standards) in the standard number of years; or, • Uses another more accurate definition that has been approved by the Secretary; and • Must avoid counting a dropout as a transfer. <p>Graduation rate is included (in the aggregate) for AYP, and disaggregated (as necessary) for use when applying the exception clause⁷ to make AYP.</p>	State definition of public high school graduation rate does not meet these criteria.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

STATUS: F

NCLB requires that graduation rate be used as another academic indicator for secondary schools and defines graduation rate as:

“the percent of students receiving a regular diploma in the standard number of years”
[1111(b)(2)(C)(vi)].

Final regulations issued November 26, 2002 define graduation rate as:

“the percentage of students, measured from the beginning of high school, who graduate from high

⁷ See USC 6311(b)(2)(I)(i), and 34 C.F.R. 200.20(b)

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

school with a regular diploma (not including an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or GED) in the standard number of years..."

In Virginia, graduation rate is the other academic indicator for secondary schools and for any school having a graduating class. In Virginia, the four diploma types are: Standard, Advanced Studies, Modified Standard, and Special. A student receiving any one of these diplomas is able to respond in the positive when asked if s/he has received a high school diploma, thus making him/her eligible to apply for post-secondary education or training. A student receiving any one of these diplomas is eligible to apply for federal tuition grants.

The Standard, Advanced Studies, and Modified Standard diplomas have specific course content requirements that are fully aligned with the state's Standards of Learning. The Special Diploma is awarded to certain students with disabilities. "In accordance with the requirements of [Virginia's] Standards of Quality, students with disabilities who complete the requirements of their Individualized Education Program (IEP) and do not meet the requirements for other diplomas shall be awarded Special Diplomas" (8 VAC 20-131-50.E). [As directed by USED](#), Virginia will not include the Special Diploma in calculating graduation rate.

The Modified Standard Diploma program is intended for certain students at the secondary level who have a disability and are unlikely to meet all of the requirements for a Standard Diploma. Eligibility and participation in the Modified Standard Diploma program shall be determined by the student's Individual Education Program (IEP) team and the student, where appropriate, at any point after the student's eighth grade year. The requirements for earning this diploma include 20 standard units of credit, including rigorous coursework in the Standards of Learning for English, mathematics, science, history and social science. In addition to earning prescribed standard units of credit in the core subjects, students pursuing the Modified Standard Diploma must take and pass English/reading and mathematics Standards of Learning tests. This Modified Standard Diploma is recognized as a diploma by institutions of higher education. The Board of Education created the Modified Standard Diploma for appropriate students to earn and it believes this diploma is a valid educational objective for appropriate students. However, in compliance with USED directives, for purposes of calculating graduation rate for NCLB, Virginia will not include recipients of the Modified Standard Diploma in its graduation rate formula.

Virginia has historically calculated and reported a graduation rate for the state and school divisions that is defined as "graduates as a percent of ninth-grade membership four years earlier." For the past 10 years, Virginia's state graduation rate using this calculation has ranged from a low of 73.2 percent to a high of 76.5 percent. The state graduation rate for 2001-2002 is 74 percent (See Attachment A: Graduates as a Percent of Ninth-Grade Membership Four Years Earlier).

Because Virginia does not have a student record system, this calculation does not account for school openings and closings, boundary changes, and the mobility of the student population. When disaggregated by school and student subgroup, the rate produces unreliable results.

Virginia intends to implement a student record system over the next three to five years. This system will enable us to calculate a true longitudinal rate that is based on a cohort of first-time ninth graders plus incoming transfers on the same schedule to graduate divided by this same cohort minus students who transfer out (See Attachment A: Graduates as a Percent of Ninth-Grade Membership Four Years Earlier).

[In the meantime, as agreed to in Virginia's August 20, 2003, response to USED letter of July 1, 2003, "Virginia will calculate a graduation rate for high schools that includes all recipients of any type of certificate or diploma \(as well as students who have dropped out of or transferred into a high school\) in the denominator and will include only those students receiving a standard diploma \(excluding students receiving a Special Diploma, Modified Standard Diploma, Certificate of Attendance, or GED certificate\) in the standard number of years in the numerator."](#)

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

The standard number of years for graduation is defined as four years or less.

Virginia will define “standard number of years for graduation” as four years or less except for students with disabilities and students with limited English proficiency (LEP) who will be allowed additional time to receive a high school diploma when that length of time is indicated as appropriate in a student’s Individualized Education Program (IEP) or by the student’s school-based LEP team.

A detailed explanation of the formula as it applies to Virginia follows:

$$GR_i = \frac{G_i + (\text{number of students receiving Special Diploma, Modified Standard Diploma, Certificate of Attendance, and GED certificates for year } i)}{D_i + D_{(i-1)} + D_{(i-2)} + D_{(i-3)}}$$

Where:

GR_i is the graduation rate for a given year (i) between 2002 and 2014

G_i is the number of students achieving a regular high school diploma (excluding Special Diploma, Modified Standard Diploma, Certificate of Attendance, and GED certificates) for year i .

D_i is the number of dropouts in grade 12 for year i .

$D_{(i-1)}$ is the number of dropouts in grade 11 for the first previous year ($i-1$).

$D_{(i-2)}$ is the number of dropouts in grade 10 for the second previous year ($i-2$).

$D_{(i-3)}$ is the number of dropouts in grade 9 for the third previous year ($i-3$).

Graduation rates will be reported at the school (where applicable), division (LEA), and state levels. Data collection systems are being modified to collect and report graduation rate by student subgroup. Since Virginia will use a graduation rate definition that includes a dropout count in the denominator (i.e., NCES defines a dropout as not returning to school by October 1) adequate yearly progress will be calculated based on the previous school year’s graduation rate. Hence, graduation rate data will be available in time to make AYP determinations and report them to LEAs and schools before the beginning of the school year.

PRINCIPLE 8. AYP is based on reading/language arts and mathematics achievement objectives.

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
8.1 Does the State measure achievement in reading/language arts and mathematics separately for determining AYP?	<p>State AYP determination for student subgroups, public schools and LEAs separately measures reading/language arts and mathematics.⁹</p> <p>AYP is a separate calculation for reading/language arts and mathematics for each group, public school, and LEA.</p>	State AYP determination for student subgroups, public schools and LEAs averages or combines achievement across reading/language arts and mathematics.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

STATUS: F

Annual Measurable Objectives for Reading/Language Arts

Consistent with section 1111(b)(2)(G) of NCLB and final Title I regulations issued November 26, 2002, one set of annual measurable objectives has been established for each school year beginning in 2002-2003 and ending in 2013-2014.

These are the annual measurable objectives for all students in the aggregate and for each subgroup identified in section 1111(b)(2)(C) of NCLB; for all schools; for all LEAs, and for the State, expressed as pass rate percents:

2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Starting Point												
60.7	61.0	61.0	Int. Goal 70.0	70.0	70.0	Int. Goal 80.0	80.0	80.0	Int. Goal 90.0	90.0	90.0	Goal: 100%

Annual Measurable Objectives for Mathematics

Consistent with section 1111(b)(2)(G) of NCLB and final Title I regulations issued November 26, 2002, one set of annual measurable objectives has been established for each school year beginning in 2002-2003 and ending in 2013-2014.

These are the annual measurable objectives for all students in the aggregate and for each subgroup identified in section 1111(b)(2)(C) of NCLB; for all schools; for all LEAs; and for the State, expressed as pass rate percents:

⁹ If the state has more than one assessment to cover its language arts standards, the State must create a method for including scores from all the relevant assessments.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Starting Point												
58.4	59.0	59.0	Int. Goal 70.0	70.0	70.0	Int. Goal 80.0	80.0	80.0	Int. Goal 90.0	90.0	90.0	Goal: 100%

For a school, LEA or the state to make adequate yearly progress the following conditions must exist, consistent with NCLB and final Title I regulations issued November 26, 2002:

At least 95% of the students (in the aggregate and by subgroups) enrolled in the course or grade level for which there are statewide assessments in reading/language arts and mathematics participate in each of those statewide assessments; AND

- the pass rate for all students and all subgroups of students on reading/language arts assessments must be at least at the level of the annual measurable objective; AND
- the pass rate for all students and all subgroups of students on mathematics assessments must be at least at the level of the annual measurable objective; AND
- schoolwide (or divisionwide or statewide), students must be at the annual measurable objective for the other academic indicator(s) (graduation rate and/or attendance rate or science) or have made progress in the indicator(s);

OR, consistent with the "safe harbor" provision of NCLB,

- the pass rate for all students or for any subgroup(s) of students on reading/language arts assessments is below the annual measurable objective; AND/OR
- the pass rate for all students or for any subgroup(s) of students on mathematics assessments is below the annual measurable objective; AND
- the failure rate(s) of those students has been reduced by at least 10% from the year before on that assessment; AND
- the students have made progress in the other academic indicator(s) (graduation rate and/or attendance rate or science).

In compliance with USED directives, Virginia will follow the procedures for calculating adequate yearly progress (AYP) stated above as approved by USED in the September 10, 2003, amended workbook. As a statement of public record, let it be clear that Virginia is "agreeing" to this directive only because the USED has made it clear it is mandating it. Virginia will comply with Section 1111(b)(2)(I)(i) that states the other academic indicators must be considered only if "safe harbor" is invoked. AYP determinations will be based primarily on meeting or exceeding the annual measurable objectives for reading and mathematics and the 95 percent participation rate requirement. The other academic indicators will be applied only when "safe harbor" is invoked.

Virginia's understanding of Section 1111(b)(2)(C)(iv) is that the definition of AYP must include an "other academic indicator" but decisions about AYP shall be based primarily on participation rates and student achievement on reading and mathematics assessments. Additionally, It is our interpretation that Section 1111(b)(2)(G) and Section 1111(b)(2)(I)(i) define how AYP is determined, and these sections permit the state and any division or school that meets the 95 percent participation rate and meets or exceeds the annual measurable objectives on the reading and mathematics assessments for all students as well as each subgroup to be designated as making AYP. We believe Section 1111(b)(2)(I)(i) states the other academic indicators must be considered only if "safe harbor" is invoked.

Consistent with current practice, assessment data for a content area will be combined across all tested grade levels or all tested courses in a school, LEA and the state to calculate participation rate and percent of students scoring at least proficient when determining whether or not AYP has been made in that content area.

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
10.2 What is the State's policy for determining when the 95% assessed requirement should be applied?	State has a policy that implements the regulation regarding the use of 95% allowance when the group is statistically significant according to State rules.	State does not have a procedure for making this determination.

STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS
<p>STATUS: F</p> <p>The Board of Education holds the expectation that all eligible students will participate in statewide assessments. The minimum number of students in a subgroup or group below which the 95 percent participation requirement for AYP will not be required is 50 for schools and <u>either 50 or 1 percent of the enrolled student population, whichever is greater, as the “minimum n” for purposes of applying the 95 percent participation rate requirement at the division and state levels</u>, as explained in Critical Element 5.5. The performance of the students will be disaggregated for AYP determination purposes only at the next highest level(s) of reporting. The percent participation of eligible students in subgroups identified in section 1111(b)(2)(C) will be verified with each testing administration through analysis of data compiled from answer documents.</p>

VIRGINIA

Consolidated State Application September 1, 2003 Submission

Amended November 24, 2003

Amended May 26, 2004

Amended January 19, 2005

for State Grants under Title IX, Part C, Section 9302 of the Elementary and
Secondary Education Act (Public Law 107-110)

Due: September 1, 2003



U. S. Department of Education
Office of Elementary and Secondary Education
Washington, D.C. 20202

C. Performance Targets (Annual Measurable Achievement Objectives) for English Language Proficiency

Section 3122(a)(3) requires that States' annual measurable achievement objectives for English language proficiency include annual increases in the number or percentage of children attaining English proficiency. Please provide the State's definition of "proficient" in English as defined by the State's English language proficiency standards. Please include in your response:

- **The test score range or cut scores for each of the State's ELP assessments**
- **A description of how the five domains of listening, speaking, reading, writing, and comprehension are incorporated or weighted in the State's definition of "proficient" in English.**

STATE RESPONSE

School divisions in Virginia used the following English language proficiency (ELP) assessments for the 2002-03 school year – the Language Assessment Scale (LAS), the Idea Proficiency Test (IPT), the Woodcock-Munoz, or a locally developed assessment that was submitted for Virginia Board of Education approval. A list of the ELP instruments used by school divisions for the 2002-03 school year is included in Attachment 1.

For those school divisions that used the Language Assessment Scale (LAS) or the Idea Proficiency Test (IPT), the publishers provided a correlation chart for school divisions to use to determine which of the four levels of English proficiency corresponded to the students' composite scores on each of the assessments.

The correlation chart for the IPT appears on their Web site at the link listed below.
<https://www.ballard-tighe.com/Ballard-Tighe/source/Product/OurProducts.asp>

The correlation chart for the LAS is attached in Attachment 2.

The five domains of listening, speaking, reading, writing, and comprehension are incorporated into the state's definition of "proficient" in English through the English language proficiency standards of learning descriptions for each of the skill levels in each of the domains. Virginia [has chosen not to use the English Language Proficiency \(ELP\) assessment developed through the Council of Chief State School Officers \(CCSSO\) as its state-approved ELP assessment](#). Virginia is working to develop a definition of "proficient" in English that will align with the ELP standards and the [state-approved Stanford English Language Proficiency \(SELP\) assessment](#).

For the [2004-2005](#) and 2003-2004 school years, school divisions will use the Stanford English Language Proficiency (SELP) test to measure the English language proficiency of the LEP students. School divisions will use the SELP cut-scores as one criterion to determine the LEP student's: 1) progress from one level of proficiency to the next; 2) exit from direct language instructional programs; 3) placement into monitor year 1 and monitor year 2 status; and 4) reclassification as non-LEP. Additional criteria may include school division data regarding LEP student performance.

In the table that follows, please provide performance targets/annual measurable

Please provide the State's definition of cohort(s). Include a description of the specific characteristics of the cohort(s) in the State, e.g., grade/grade span or other characteristics.

STATE RESPONSE

The LEP cohort for performance indicator 2.1 will be defined as all LEP students who have been enrolled in a Virginia public school for a full academic year. The annual measurable achievement objectives for attaining English language proficiency are projections for the percentage of LEP students at each grade cluster K-2, 3-5, 6-8, 9-12 who are to be reclassified as non-LEP after receiving direct language instruction for 5 consecutive years or less. Non-LEP students shall be defined as those students who maintain full proficiency in English by scoring at the proficient level on the reading and writing portions of the English language proficiency assessment for two consecutive years after formally exiting the language instruction program.

~~The percentage of LEP students~~ The annual measurable achievement objectives for making progress ~~are projections shall be determined by the percentage of for~~ LEP students who have been enrolled for a full academic year in a Virginia public school ~~to and have~~ increased one level or more on the English Language Proficiency Standards of Learning as measured by a body of evidence that includes the ~~their composite score on a~~ state-approved English language proficiency assessment results. ~~aligned to the Standards of Learning.~~

Beginning with the 2004-2005 school year, ELP assessment results for kindergarten and first grade LEP students will include their performance results on the listening and speaking components of the ELP assessment. Kindergarten and first grade LEP students will not take the reading and writing components of the ELP assessment.

English Language Proficiency Performance Targets/Annual Measurable Achievement Objectives

***Unit of Analysis/Cohort: See above description of cohort.**

(Note: States should specify the defining characteristics of each cohort addressed, e.g., grades/grade spans)

English Language Proficiency Targets	Percent or Number of LEP Students Making Progress in Acquiring English Language Proficiency	Percent or Number of LEP Students Attaining English Language Proficiency
2003-2004 School Year	20%	10%
2004-2005 School Year	25%	15%
2005-2006 School Year	30%	20%
2006-2007 School Year	35%	25%
2007-2008 School Year	40%	30%

VIRGINIA'S
CONSOLIDATED STATE APPLICATION
for State Grants under
Title IX, Part C, Section 9302 of the Elementary and
Secondary Education Act (Public Law 107-110)

Virginia Department of Education
P.O. Box 2120
Richmond, Virginia 23218-2120
May 2002
[Amended January 19, 2005](#)

- c. **Specify the percentage of the State's allotment that the State will reserve and the percentage of the reserved funds that the State will use for each of the following categories of State-level activities: Professional development; planning; evaluation; administration; and interagency coordination; technical assistance; and providing recognition to subgrantees that have exceeded their annual measurable achievement objectives. A total amount not to exceed 5 percent of the State's allotment may be reserved by the State under section 3111(b)(2) to carry out one or more of these categories of State-level activities.**

Refer to the budget chart (Attachment C) for the amount of Title III, Part A, funds to be reserved for state-level activities. Virginia will reserve 5 percent of the state's allotment. The department will use 86 percent of the reserve for planning, evaluation, administration, and interagency coordination. The remaining 14 percent will be used for professional development, interagency coordination, and providing recognition to subgrantees that have exceeded their annual measurable objectives.

- d. **Specify the percentage of the State allotment that the State will reserve for subgrants to eligible entities that have experienced a significant increase in the percentage or number of immigrant children and youth. A total amount not to exceed 15 percent of the State's allotment must be reserved by the State under section 3114(d)(1) to award this type of subgrant.**

The state will reserve ~~15~~ [5 percent](#) for these subgrants.

- e. **Describe the process that the State will use in making subgrants under section 3114(d) to LEAs that have experienced a significant increase in the percentage or number of immigrant children and youth.**

If a local school division qualifies for a subgrant under the immigrant children and youth provision, it will be required to specify how it will use its funds to provide enhanced instructional opportunities for immigrant children and youth in its consolidated or individual application. Under this requirement, LEAs will be asked to describe the program or activity they plan to implement, the method for implementation, the evaluation to be used, and the corresponding budget allocation.

The program or activity may be one or more of the following: 1) family literacy, parent outreach, and training activities designed to assist parents in becoming active participants in the education of their children; 2) support for personnel, including teacher aides who have been specifically trained or are being trained, to provide services to immigrant children and youth; 3) tutorials, mentoring, and academic or career counseling; 4) identification and acquisition of curricular materials, educational software, and technologies; 5) basic instruction services that are directly attributable to the presence in the school district of immigrant children and youth; 6) other instructional services that are designed to assist immigrant children and youth to achieve in